

Perlindungan Ilmuwan, Kebebasan Akademik, dan Pelemahan Demokrasi

HERLAMBANG P WIRATRAMAN

2022

Catatan untuk presentasi (TOR)

“Melindungi Ruang, Menjaga Harapan” Diskusi & Peluncuran Laporan Studi Kerangka Hukum Pelindungan Civic Space di Indonesia

- Materi civic space dalam pembahasan ranah akademik
- Pengaruh shrinking civic space dalam ranah akademik



Temuan dan Analisis:

Kebebasan Berekspresi dan Berpendapat

- Pasal penghinaan dan pencemaran nama baik (Ps. 27(3) UU ITE) masih digunakan untuk membungkam kritik. → dalam kasus Saiful Mahdi dan Haris-Fatia, SKB diabaikan.
- Terjadinya pergeseran interpretasi atas pasal berita bohong (UU 1/1946) sejak UU ITE berlaku. → campur aduk dalam implementasi dengan pasal penghinaan, pencemaran nama baik, ujaran kebencian.
- Pasal ujaran kebencian (Ps. 28(2) UU ITE) digunakan secara melenceng, tak sejalan dengan batasan unsur SARA (Ps. 156 KUHP). → misal: kasus Jerinx vs IDI Bali.
- Kebijakan anti-sains kian menjadi tren, banyak riset ilmiah yang didiskreditkan, peretasan gawai milik akademisi yang kritis terhadap pemerintah.



Sumber foto: <https://senarai.or.id/kabar/haris-fatia-bicara-kebenaran-tak-layak-dipidana>

g. Mengenai ketentuan yang cenderung anti sains dan menghambat aktivitas riset dalam UU Pendidikan Tinggi:

- Sebenarnya rumusan pasal di UU Pendidikan Tinggi sudah baik, tapi masih ada sedikit ambiguitas terkait lingkup kebebasan akademik di Indonesia: apakah itu berlaku di lingkungan perguruan tinggi saja atau pada tiap aktivitas penelitian.
- Idealnya, demi membangkitkan iklim sains, kebebasan akademik tidak hanya dalam koridor kampus, tapi juga penelitian mandiri. Perlu ada penegasan soal lingkup kebebasan akademik ini agar periset yang tidak terafiliasi dengan kampus juga tetap bisa terlindungi.
- Selain itu, perlu ada pengadopsian Prinsip-Prinsip Surabaya tentang Kebebasan Akademik ke dalam instrumen hukum.

Kajian PSHK dan Rekomendasi Ranah Akademik

- 24-25 – Prinsip Surabaya untuk Kebebasan Akademik
- 62-53 – UU Pendidikan Tinggi – pasal 9 (1) jo. 13 (3)
- 118-131 – Larangan dan Hambatan Diskusi Publik
- 195 – Kajian terkait dengan ajaran Marxisme
- 200-205 – Kebijakan anti sains dan pemberangusa riset
- 257 – Rekomendasi kajian



Dasar Konstitusional, UUDNRI 1945

Pasal 28C

- (1) Setiap orang berhak mengembangkan diri melalui pemenuhan kebutuhan dasarnya, berhak mendapat pendidikan dan memperoleh manfaat dari ilmu pengetahuan dan teknologi, seni dan budaya, demi meningkatkan kualitas hidupnya dan demi kesejahteraan umat manusia.**

BAB XIII

PENDIDIKAN DAN KEBUDAYAAN***

Pasal 31

- (5) Pemerintah memajukan ilmu pengetahuan dan teknologi dengan menjunjung tinggi nilai-nilai agama dan persatuan bangsa untuk kemajuan peradaban serta kesejahteraan umat manusia.****

Academic Freedom:

“Standard and Its Interpretation”



OFFICE OF THE HIGH COMMISSIONER
FOR HUMAN RIGHTS



CESCR General Comment No. 13: The Right to Education (Art. 13)

*Adopted at the Twenty-first Session of the Committee on Economic,
Social and Cultural Rights, on 8 December 1999
(Contained in Document E/C.12/1999/10)*

39. Members of the academic community, individually or collectively, are free to pursue, develop and transmit knowledge and ideas, through research, teaching, study, discussion, documentation, production, creation or writing. Academic freedom includes the liberty of individuals to express freely opinions about the institution or system in which they work, to fulfil their functions without discrimination or fear of repression by the State or any other actor, to participate in professional or representative academic bodies, and to enjoy all the internationally recognized human rights applicable to other individuals in the same jurisdiction. The enjoyment of academic freedom carries with it obligations, such as the duty to respect the academic freedom of others, to ensure the fair discussion of contrary views, and to treat all without discrimination on any of the prohibited grounds.

40. The enjoyment of academic freedom requires the autonomy of institutions of higher education. Autonomy is that degree of self-governance necessary for effective decision-making by institutions of higher education in relation to their academic work, standards, management and related activities. Self-governance, however, must be consistent with systems of public accountability, especially in respect of funding provided by the State. Given the substantial public investments made in higher education, an appropriate balance has to be struck between institutional autonomy and accountability. While there is no single model, institutional arrangements should be fair, just and equitable, and as transparent and participatory as possible.

Surabaya Principles on Academic Freedom

[Dec 6, 2017, endorsed by SEAHRN, 25 April 2018 in Kota Kinabalu]

1. *Academic freedom is a fundamental freedom needed to develop the autonomy of academic institutions;*
2. *The academic community; those who are engaged in academic activities, have full freedom in developing community service, education, research, and publishing academic results in accordance with scientific principles;*
3. *Members of the academic community who work as educators have the freedom in the classroom to conduct their course using scientific methods and respecting values of humanity;*
4. *The academic community should possess scientific integrity for humanity in developing a responsible academic culture and should be free from any restrictions and disciplinary actions;*
5. *Public authorities have an obligation to respect, protect and ensure measures to guarantee academic freedom.*

Prinsip-Prinsip Kebebasan Akademik

[Surabaya Principles on Academic Freedom]

1. Kebebasan akademik adalah kebebasan yang bersifat fundamental dalam rangka mengembangkan otonomi institusi akademik;
2. Insan akademis, mereka yang melakukan aktivitas di ranah akademik, memiliki kebebasan penuh dalam mengembangkan pengabdian masyarakat, pendidikan, penelitian, serta mempublikasikan hasil-hasilnya sesuai dengan kaidah-kaidah keilmuan;
3. Insan akademis yang bekerja sebagai pengajar pada dunia pendidikan memiliki kebebasan di dalam kelas untuk mendiskusikan mata kuliah dengan mempertimbangkan kompetensi keilmuan dan penghormatan terhadap nilai-nilai kemanusiaan;
4. Insan akademis harus bebas dari pembatasan dan pendisiplinan dalam rangka mengembangkan budaya akademik yang bertanggung jawab dan memiliki integritas keilmuan untuk kemanusiaan;
5. Otoritas publik memiliki kewajiban untuk menghargai dan melindungi serta memastikan langkah-langkah untuk menjamin kebebasan akademik.

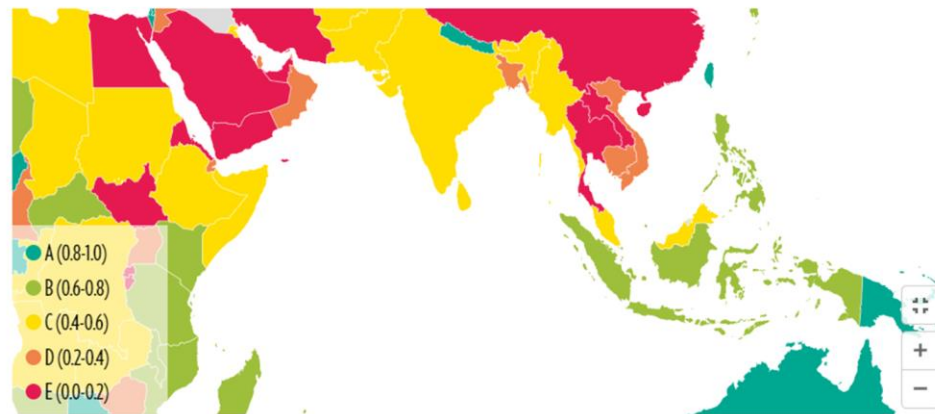
Surabaya, 6 December 2017



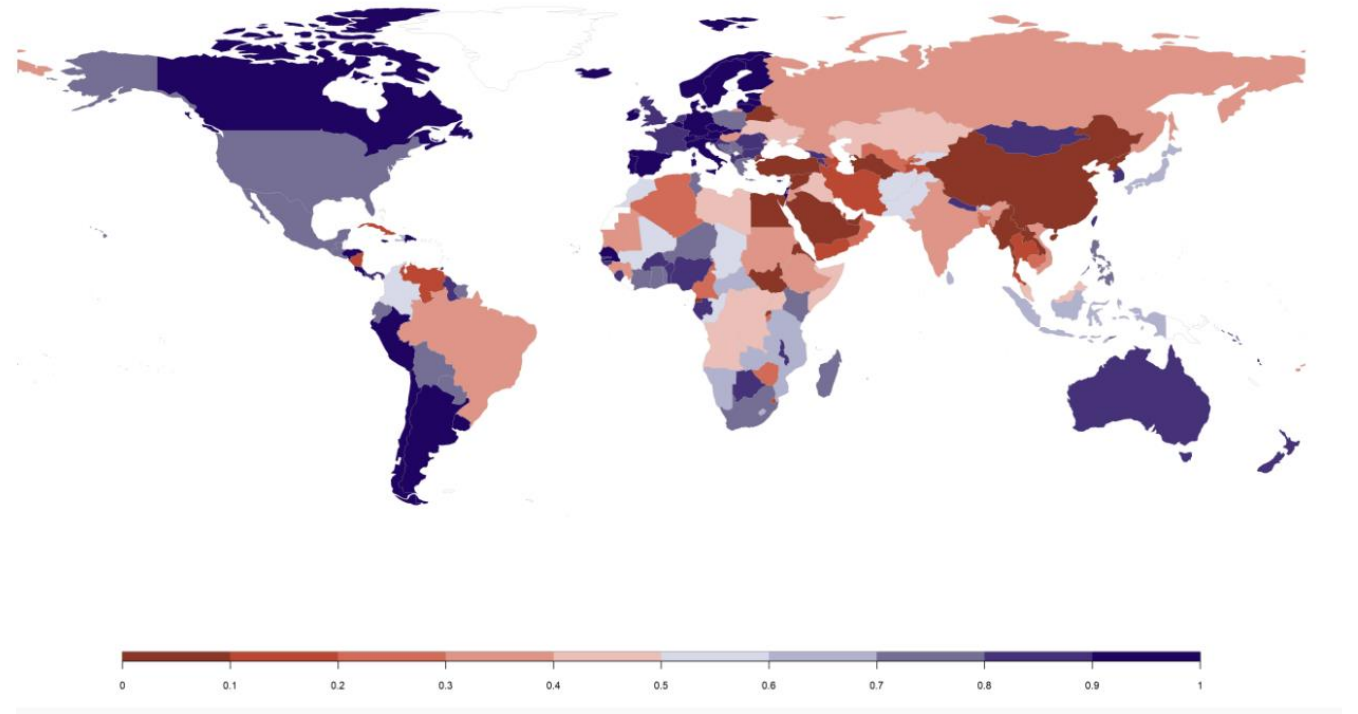
- Indeks mengonfirmasi tren penurunan di banyak negara terkait kebebasan akademik.

Global Levels of Academic Freedom 2020

Status Groups According to the Academic Freedom Index



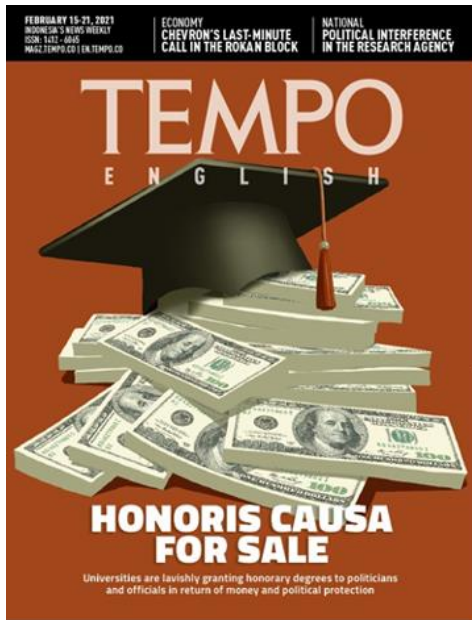
Source: Afi status group concept developed by the authors, based on V-Dem data (v11)



FAU Friedrich-Alexander-Universität
Erlangen-Nürnberg

Academic freedom on the decline

Researchers at the University of Gothenburg and FAU Erlangen-Nürnberg publish the Academic Freedom Index 2022



A DANGEROUS SIGNAL FROM CAMPUS

The government decision to go ahead with the appointment of a problematic university rector sends the wrong message to the public. The quality of research is at stake.



Edition : Monday, February 1, 2021



Mengapa tekanan di ranah akademik terus terjadi?

1. Tidak ada/terbatasnya otonomi universitas + intervensi politik negara/menteri untuk mengangkat rektor, tindakan administratif
2. Warisan feodalisme
3. Tidak ada/terbatasnya kerangka hukum untuk melindungi kebebasan akademik + lemahnya tradisi kebebasan akademik
4. Mengontrol/pengendalian penelitian, publikasi dan kelembagaannya
5. Kebijakan supresif untuk membungkam kritik + kooptasi dan/atau hegemoni negara dalam mendisiplinkan akademisi dan peneliti hubungan kekuasaan oligarki
6. Kebijakan/kriminalisasi menysar pada kritik/protes, serangan digital – serangan kekerasan – defamasi, kritik ke pemerintah, diskusi akademik (Kasus CLS), peretasan hasil riset, persekusi / doxing

Indonesia suppresses data on critically endangered Orangutan habitat threats

By Duncan Graham

Oct 7, 2022



Pembungkaman dengan narasi anti sains, menguat, termasuk Dalam melemahkan pendiseminasian hasil-hasil kajian.

CAREERS

COMMENTARY

JOURNALS ▾

COVID-19

Science

Wildfire researcher deported amid growing rift between Indonesian government and scientists

Researchers fear growing political pressure against unwelcome environmental data

12 FEB 2020 • BY DYNA ROCHMYANINGSIH



Development Today

Climate Ministry defends Indonesia forest pact, experts double down on critique of secrecy clauses

News / October 04, 2022

Secrecy clauses in an agreement on reducing deforestation, signed recently by Norway and Indonesia, do not violate Norwegian law and “do not apply to third parties,” the Climate Ministry in Oslo says. Legal scholars in Norway and Indonesia challenge the ministry’s interpretation.



Development Today

OPINION

Support to civil society and independent scientific research appear of little importance to Norway’s new climate and environment deal with Indonesia

Opinion / October 07, 2022

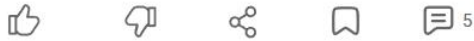
Espen Barth Eide, Norway’s Minister for Climate and Environment, has just signed a new climate and environment deal with Indonesia. It appears support to civil society and independent scientific research are not among the priorities, researchers from Chr. Michelsens Institute write.



David Aled Williams, Sofie Arjon Schuette, and Kari Telle are senior researchers at Chr. Michelsens Institute Photo: CMI

10 Mahasiswa Ditangkap Usai Bentangkan Poster Kritik Jokowi, Ini Kata BEM UNS

Kompas.com - 13/09/2021, 16:33 WIB



Paragraf 2

Penghinaan terhadap Pemerintah atau Lembaga Negara

Pasal 240

- (1) Setiap Orang yang Di Muka Umum dengan lisan atau tulisan menghina pemerintah atau lembaga negara, dipidana dengan pidana penjara paling lama 1 (satu) tahun 6 (enam) Bulan atau pidana denda paling banyak kategori II.
- (2) Dalam hal Tindak Pidana sebagaimana dimaksud pada ayat (1) berakibat terjadinya kerusuhan dalam masyarakat, dipidana dengan pidana penjara paling lama 3 (tiga) tahun atau pidana denda paling banyak kategori IV.
- (3) Tindak Pidana sebagaimana dimaksud pada ayat (1) hanya dapat dituntut berdasarkan aduan pihak yang dihina.
- (4) Aduan sebagaimana dimaksud pada ayat (3) dilakukan secara tertulis oleh pimpinan pemerintah atau lembaga negara.

Recommendation, August 31, 2022

KIKA and SAR urge UN member states to call on Indonesia to

- (1) Publicly commit to protecting and promoting academic freedom, university autonomy, and rights that are fundamental to higher education communities, especially freedom of expression, freedom of assembly, and freedom of association;
- (2) Refrain from the use of force or legal actions intended to restrict or punish scholars' and students' exercise of academic freedom and related rights;
- (3) Investigate violations of scholars' and students' academic freedom and related rights, and hold perpetrators accountable;
4. Establish an ombudsperson tasked with receiving and responding to academic freedom concerns at public and private higher education institutions;
5. Revise the ITE Law and Science Law to conform to national and international legal standards and obligations relating to academic freedom and freedom of expression; and
6. Strengthen university autonomy and reduce the risk of corruption in state higher education institutions, including by allowing university senates greater control over rector appointments.

Tantangan Pembaruan Hukum, Ranah Akademik

- Prinsip-Prinsip Surabaya Kebebasan Akademik diadopsi dalam SNP/Standar Norma dan Pengaturan Komnas HAM, No. 5 Tahun 2021 [+ 2018 diadopsi SEAHRN]
- Tantangan menguatnya ‘authoritarian rule’ dan pelemahan demokrasi – berdampak pada kendali riset, pembungkaman ilmuwan, dan pendisiplinan kampus/institusi riset – ‘*security clearance*’
- Konteks transformasi digital yang memperlihatkan kecenderungan kuat ‘*digital authoritarianism*’

